IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE TWENTY FOURTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE GHULAM MOHAMMED

WRIT APPEAL NO : 279 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 28/12/2004 in WP NO : 24474 OF 2004 on the file of the High Court.)

Between:

M/s. Mc. Dowell & Company Limited, having Its Registered Office at

Mc. Dowell House, 51 Rich Mond Road, Bangalore - 25. Rep. by Power of Authority Holder Shri Krishna Swamy Iyenger, S/o. Ranga Chari, Aged about 49 Years, r/o. 345-SRT, S.R. Nagar, Hyderabad.

..... APPELLANT

AND

1. The State of Andhra Pradesh, Rep. by its

Principal Secretary to Revenue Department,
Secretariat, Hyderabad.
2. The Commissioner for Appeals, Urban Land Ceilings, Hyderabad.
3. The Special Officer and Competent Authority, Urban Land Ceiling,

Visakhapatnam.
4. The District Collector, Visakhapatnam.
5. The Commissioner, Municipal Corporation, Visakhapatnam.
6. The Vice Chairman, Visakhapatnam Urban Development Authority,

Visakhapatnam.
7. The Mandal Revenue Officer, Visakhapatnam Urban Mandal, Authority,

Visakhapatnam.
8. The Station House Officer, Visakhapatnam Town, Visakhapatanam.
9. The Vice-Chairman & Managing Director, Andhra Pradesh Industrial

Infrastructure Corporation Limited, 6th Floor, Parisramabhavan, 5-9-

8/B, Basheerbagh, Hyderabad - 500 004.

.....RESPONDENTS

Counsel for the Appellant: MR.C.HANUMANTHA RAO

Counsel for the Respondent Nos 1 to 4, 7 & 8: GP FOR ASSIGNMENT

Counsel for Respondent No.9 : E.Madhusudhan Rao

Counsel for Respondent No .5 : T.S.Venkata Ramana

Counsel for Respondent No .6 : Smt.Sumalini Reddy

WRIT PETITION NO : 24474 of 2004

Between:

M/s. Mc.Dowell & Co.Ltd., Having its registered office At Mc.Dowell House, 51 Rich Mond Road, Bangalore-25,
rep.by power of Authority Holder, Shri Krishna Swamy IYender,
S/o.Ranga Chari, R/o.345-SRT, S.R.Nagar, Hyderabad.

..... PETITIONER

AND

1. The Principal Secretary to Government, Revenue Department,

Secretariat building, Hyderabad.
2. The Commissioner Appeals, Urban Land Ceilings, Nampally Station

Road, Hyderabad.
3.The Special officer and Competent Authority, Urban Land ceiling,

Visakhpatnam.
4. The District Collector, Visakhapatnam.
5. The Commissioner, Municipal Corporation, Visakhapatnam.
6. The Vice Chairman, Visakhapatnam Urban Development Authority,
   Visakhapatnam.
7. The Mandal Revenue officer, Visakhapatnam Urban Mandal,

Visakhapatnam.
8. The Station House officer, Visakhapatnam Town, Visakhapatnam.
9. The Vice-Chairman & Managing Director, Andhra Pradesh Industrial

Infrastructure Corporation Ltd.,
   6th floor, Parisramabhavan, 5-9-58/B,
   Basheerabagh, Hyderabad-500004. A.P.

....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order more particularly one in the nature of writ of Mandamus for a declaration that the inaction of the 2nd respondent in not entertaining the statutory appeal filed by the petitioner company under section 33 of the Urban Land Ceiling Act against the orders passed in C.C.No.6698/76 by the 3rd respondent i.e. the special officer and competent Authority, Urban Land Ceilings, Visakhapatnam and the hasty steps of the 1st respondent Government in entrusting the land of the petitioner company to an extent of 4.3101 Hectares in Sy.NO.1011/36 of Block No.39 of Waltair ward, Visakhapatnam to the 9th respondent or any authority or institution pending disposal of the statutory appeal is illegal, arbitrary in spite of the observations of this Hon'ble court passed in W.P.No.11591 of 2004, dated 28-9-2004 and as confirmed in W.A.No.1712 of 2004, dated 03-11-2004 and directions to the 2nd respondent to entertain the appeal and decide the same taking into consideration of the decisions of the Hon'ble Supreme court in Review petition (Civil) Nos.288-292/2002 & S.L.P.(C) Nos.22972- 22976/2001, dated 3-4-2002 and orders of this Hon'ble Court passed in W.P.No.11591 of 2004 dated 28-09-2004 and as confirmed in W.A.No.1712 of 2004, dated 3-11-2004 and pass necessary orders allowing the Appeal meanwhile pass orders directing the respondents not to allot, entrust or assign the land to the petitioner company pending disposal of the statutory appeal under section 33 of the urban Land ceiling Act, 1976 in favour of 9th respondent or any 3rd party or 3rd parties or any institution or institutions and pass such other order or orders.

Counsel for the Petitioner: MR.C.HANUMANTHA RAO

Counsel for the Respondent Nos 1 to 4, 7 and 8: GP for Assignment

Counsel for the Respondent No.5: MR.T.S.VENKATARAMANA

Counsel for the Respondent No.6: Ms.SUMALINI REDDY

The Court made the following :

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ORAL ORDER: (per the Hon'ble the Chief Justice)

Grievance of the appellant is against the order passed by the learned single Judge on 28.12.2004 disposing of the writ petition with liberty reserved to the appellant to pursue his remedy before the appellate authority.

The appellant-petitioner has already filed an appeal under Section 33 of the Urban Land (Ceiling and Regulation) Act, 1976 before the 2nd respondent. Along with the appeal the appellant filed an application for stay and the prayer made thereunder is to pass orders of status quo and stay of further proceedings in CC No.6698 of 1976 on the file of the Special Officer and competent authority under Urban Land Ceiling Act, Visakhapatnam pending disposal of the appeal. This appeal was filed on 24.11.2004. The grievance of the appellant was that though the appeal was filed on 24.11.2004, neither the appeal was taken up for hearing nor any interim order was passed. Therefore, the petitioner approached this Court by way of filing the writ petition and sought to challenge the action of respondent No.2 in not entertaining the statutory appeal with a further direction to it to entertain the appeal and decide the same. The learned single Judge disposed of the writ petition on the ground that since the appeal has been filed, there are no grounds to interject during the pendency of the said appeal. Instead of passing any further direction as to the expeditious disposal of the appeal by the 2nd respondent, the writ itself was

disposed of with liberty reserved to the appellant to pursue his remedy before the appellate authority.

There is no manner of doubt that the appellant has preferred a statutory appeal in the month of November 2004 and there is no reason why the 2nd respondent, who is enjoined with the duty to hear and dispose of the appeal, has not taken up either the appeal or the miscellaneous application for consideration. May be that it would take some time to decide the main appeal but there is no reason why the prayer for interim relief is not taken up for consideration. Learned single Judge ought to have issued appropriate directions for taking up the appeal as well as the application for interim relief for consideration. Consequently, we allow the appeal, set aside the impugned order of the learned single Judge and dispose of the writ petition with a direction to respondent No.2 to take up the appeal as well as the prayer for interim relief for consideration and pass appropriate orders as regards the fixing the date for hearing of the main appeal and for such other reliefs as may be deemed fit and proper in the circumstances of the case and in consonance with the prayer made in the application thereof. The appeal will be taken up for consideration within a period of one week from the date of receipt of writ order from this Court.

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DEVINDER GUPTA, CJ

Dated 24..02..2005

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GHULAM MOHAMMED

msv.

To

1. The Principal Secretary to Revenue Department,

State of Andhra Pradesh,
Secretariat, Hyderabad.
2. The Commissioner for Appeals, Urban Land Ceilings, Hyderabad.
3. The Special Officer and Competent Authority, Urban Land Ceiling,

Visakhapatnam.
4. The District Collector, Visakhapatnam.
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Visakhapatnam.
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Visakhapatnam.
8. The Station House Officer, Visakhapatnam Town, Visakhapatanam.
9. The Vice-Chairman & Managing Director, Andhra Pradesh Industrial

Infrastructure Corporation Limited, 6th Floor, Parisramabhavan, 5-9-

8/B, Basheerbagh, Hyderabad - 500 004.

10. 2 CCs to G.P for Assignment, High Court of A.P. Hyderabad (OUT)

11. 2 CD copies.